

ASSEMBLY BILL

No. 2492

Introduced by Assembly Member Pringle

February 20, 1998

An act to amend Sections 12401.5 and 12409 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2492, as introduced, Pringle. Title insurance.

Existing law governing title insurance authorizes the Insurance Commissioner to prescribe by rule and regulation a statistical plan reasonably adapted to each of the title insurance rating systems in use in the state. Existing law provides that the plan shall be used by each title insurer in the reporting of data required by the plan in order that the experience of all title insurance may be made available on an annual basis. It also provides that no title insurer shall be required to record or report data on a system basis that is inconsistent with the rating system in use by it, and requires the commissioner to designate one or more advisory organizations to, among other things, assist in the development of the plan.

This bill would provide that the plan shall be used by title insurers in reporting data required by the plan in order that experience of all title insurance may be made available to the commissioner on an annual basis, beginning July 1, 1999. It would require every licensed title insurer in the state to record and report data directly to the commissioner, regardless of whether required to do so on a system basis that

is inconsistent with the rating system in use by it. This bill would also authorize, rather than require, the commissioner to designate one or more advisory organizations to, among other things, assist in the development of the plan.

Existing law governing title insurance provides that a willful violation of any of those provisions is a crime.

By adding new requirements with respect to reporting by title insurers under the statistical plan, this bill would expand the scope of an existing crime, thereby creating a state-mandated local program.

Existing law makes it unlawful for a title insurer, controlled escrow company, or underwritten title company to pay certain commissions or make certain rebates in connection with the business of title insurance. It also subjects any violator to a penalty of 5 times the amount of the unlawful commission or rebate.

This bill would, instead, subject any violator to a penalty of \$10,000 or 5 times the amount of the unlawful commission or rebate, whichever amount is greater. It would also authorize the commissioner, in addition to or in lieu of any other applicable penalties, to issue an order, after a hearing, to restrict or suspend the certificate of authority of any title insurer or controlled escrow company or the license of any underwritten title company, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12401.5 of the Insurance Code is
- 2 amended to read:
- 3 12401.5. As a further aid to uniform administration of
- 4 rate regulatory laws of this state, the commissioner may
- 5 prescribe by reasonable rules and regulations:



1 (a) For the annual reporting of financial data relating
2 to the aggregate economic performance of all title
3 insurance entities conducting the business of title
4 insurance in this state. Such data, if required, shall be for
5 the purpose of determining the industry financial
6 experience for the reporting year and shall reflect the
7 after-tax rate of return on total capital, including
8 investment income and realized and unrealized capital
9 gains, from whatever source attributable to operations in
10 this state.

11 (b) A statistical plan, reasonably adapted to each of the
12 rating systems in use within the state. Any ~~such~~ plan may
13 be modified from time to time and shall be used
14 thereafter by each title insurer in the reporting of data
15 required by ~~such~~ the plan, in order that the experience
16 of all title insurance may be made available to the
17 commissioner on an annual basis, *beginning July 1, 1999*,
18 in ~~such~~ the form and detail as ~~may be necessary to aid~~
19 *prescribed by* the commissioner in determining whether
20 rating systems comply with the standards set forth in this
21 chapter. In promulgating—~~such~~ the plan, the
22 commissioner may give due consideration to the rating
23 systems in use and, in order that ~~such~~ the plan may be as
24 uniform as is practicable among the several states, to the
25 rules and to the form of the plan used for ~~such~~ these rating
26 systems in other states. ~~No—Every licensed title insurer in~~
27 ~~the state shall be required to record or and report data on~~
28 ~~a system basis that is inconsistent with the rating system~~
29 ~~in use by it directly to the commissioner.~~ The
30 commissioner ~~shall~~ may designate one or more advisory
31 organizations to assist in the development of ~~any—such~~ the
32 statistical plan and to further assist in gathering data and
33 making compilations thereof, and—~~such~~ these
34 compilations shall be made available, subject to
35 reasonable rules ~~promulgated~~ adopted by the
36 commissioner, to title insurers and advisory
37 organizations. No statistical plan or modifications thereto,
38 ~~nor~~ or rules or regulations pertaining thereto, shall be
39 adopted or implemented absent compliance with the
40 provisions of Article 5 (commencing with Section 11346)

1 of *Chapter 3.5 of Part 1 of Division 3 of Title 2* of the
2 Government Code, except that any ~~such~~ plan, rule, or
3 regulation shall not become effective for a period of 120
4 days following its adoption, and any ~~such~~ plan, rule, or
5 regulation shall be deemed to be a regulation required to
6 be filed with the Secretary of State for purposes of Article
7 5 (commencing with Section 11346) of *Chapter 3.5 of Part*
8 *1 of Division 3 of Title 2* of the Government Code.

9 SEC. 2. Section 12409 of the Insurance Code is
10 amended to read:

11 12409. Every title insurer and every controlled
12 escrow company and every underwritten title company
13 which pays any commission or which makes any unlawful
14 rebate in violation of this article shall be liable to the
15 people of California for *ten thousand dollars (\$10,000) or*
16 *five times the amount of any such that commission or*
17 *unlawful rebate, whichever amount is greater, the*
18 *amount thereof to be recovered by the commissioner*
19 *pursuant to Section 12976 of this code* in addition to any
20 other penalty imposed by law. *In addition to, or in lieu of,*
21 *any other penalty that may be imposed under this code,*
22 *the commissioner may, after a hearing, issue an order to*
23 *restrict or suspend the certificate of authority of any title*
24 *insurer or controlled escrow company or the license of*
25 *any underwritten title company. The commissioner may*
26 *restrict or suspend the certificate of authority or license*
27 *on a statewide basis or in specified counties.*

28 SEC. 3. No reimbursement is required by this act
29 pursuant to Section 6 of Article XIII B of the California
30 Constitution because the only costs that may be incurred
31 by a local agency or school district will be incurred
32 because this act creates a new crime or infraction,
33 eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section
35 17556 of the Government Code, or changes the definition
36 of a crime within the meaning of Section 6 of Article
37 XIII B of the California Constitution.

38 Notwithstanding Section 17580 of the Government
39 Code, unless otherwise specified, the provisions of this act

1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

O

